

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed May 19, 2004. Claims 1-10 are pending in the Application. The Examiner rejected Claims 1-10. Applicant has amended Claim 1. Applicant submits that no new matter has been added with these amendments. As described below, Applicant believes all claims to be allowable over the cited references. Therefore, Applicant respectfully requests reconsideration and full allowance of all pending claims.

Section 102 Rejections

The Examiner rejects Claims 1-2, 4-6, and 8-10 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,163,097 issued Pegg ("*Pegg*"). For the following reasons, Applicant respectfully requests reconsideration and allowance of Claims 1-2, 4-6, and 8-10.

Pegg discloses "an authorization center coupled to an access code entry means (e.g., telephone dial, ISDN hone keypad, ATM keypad, a dual tone multiple frequency keypad, touch or scribe sensitive screen, speech recognition device, etc.)." (Column 3, lines 3-7). A unique access key, such as a pin, is assigned to the user. (Column 4, lines 9-10). "The user preselects one of the cipher algorithms 118 from the pool of selectable cipher algorithms 110 when the access key is first assigned to the user." (Column 4, lines 20-23). For the purpose of verifying the identity of the user when using the access code entry means (i.e., ATM), the authorization center maintains user account information 104 in the form of a table that includes "account ID's; user access keys 106; user algorithm index numbers 108; user selectable cipher algorithms 110; and dynamic variables 112." (Column 4, lines 1-4). When the user seeks access to the user's account information, the ATM prompts the user to enter a non-machine generated access code 123. (Column 5, lines 24-26). The non-machine generated access code 123 "is generated from memory by the user without the necessity of a separate computer." (Column 4, lines 38-41). Thus, the user manually generates the access code 123 using the selected cipher algorithm and at least the user's access key and one or more dynamic variables and enters the non-machine generated access code via a keypad or other input device. (Column 4, lines 30-33; Column 5, lines 29-32). The authorization center

the proceeds to generate a corresponding access code based on the stored data. (Column 5, lines 48-51). "After the user 101 and the authorization center generate access codes, 123, 124, they are compared to determine whether a match exists." (Column 5, lines 5-8). "A match indicates a valid access code." (Column 5, line 8). Accordingly, Applicant respectfully submits that *Pegg* merely discloses a limited access system that includes an additional level of security for verifying the identity of a user of an ATM machine.

In contrast, independent Claim 1, as amended, recites:

A method for communicating a data message, comprising:
selecting a table key value to be used as an index into an encryption selection table, the key value being a function of a periodic key value and a public variable key value, the encryption selection table specifying at least one of a plurality of encryption methods to be used to encrypt a data message;
encrypting the data message using the encryption method associated with the table key value; and
transmitting the encrypted data message over a data communication network.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); M.P.E.P. § 2131. In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim." *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990); M.P.E.P. § 2131 (*emphasis added*). Whether considered alone or in combination with any other cited references, *Pegg* does not disclose, either expressly or inherently, each and every element of the claims.

For example, Applicant respectfully submits that *Pegg* does not disclose, teach, or suggest "selecting a table key value to be used as an index into an encryption selection table, the key value being a function of a periodic key value and a public variable key value," as

recited in Applicant's Claim 1. As discussed above, *Pegg* discloses that a user manually generates the access code 123 using a pre-selected cipher algorithm and at least the user's access key and one or more dynamic variables. Even if the Examiner considers the access key and the dynamic variables disclosed in *Pegg* to be the equivalent of Applicant's claimed periodic key value and public variable key value, respectively, the access code of *Pegg*, which is generated from the access key and the dynamic variables, is not "used as an index into an encryption selection table," as recited in Applicant's Claim 1. *Pegg* discloses that it is the valid account ID that is "used to locate the users corresponding data file containing the proper selected cipher algorithm index 122 and the user's access key 114." (Column 5, lines 41-45). As discussed above, the authorization center uses the stored data to generate access code 124. (Col. 5, lines 48-51). Accordingly, Applicant respectfully submits that *Pegg* does not disclose, teach, or suggest "selecting a table key value to be used as an index into an encryption selection table, the key value being a function of a periodic key value and a public variable key value," as recited in Applicant's Claim 1.

As further examples, Applicant respectfully submits that *Pegg* does not disclose, teach, or suggest "encrypting the data message using the encryption method associated with the table key value" or "transmitting the encrypted data message over a data communication network," as recited in Applicant's Claim 1. In fact, and as discussed above, the access codes 123 and 124 generated by the user and the authorization center, respectively, are merely "compared to determine whether a match exists." (Column 5, lines 5-8). "If a match is detected, the authorization center acknowledges access by a proper user" and grants access to the user. (Column 5, lines 58-61). "The user then continues with the desired transactions." (Column 5, line 63). Because *Pegg* does not disclose, teach, or suggest any further use of the pre-selected algorithm for encrypting data messages, *Pegg* cannot be said to disclose, teach, or suggest "encrypting the data message using the encryption method associated with the table key value" or "transmitting the encrypted data message over a data communication network," as recited in Applicant's Claim 1.

For at least these reasons, Applicant respectfully requests reconsideration and allowance of independent Claim 1.

Claims 2 and 4-5 depend from independent Claim 1, which Applicant has shown above to be allowable. Since Claims 2 and 4-5 incorporate the limitations of independent Claim 1, Claims 2 and 4-5 are allowable for at least this reason. Additionally, Applicant respectfully submits that Claims 2 and 4-5 also recite features that are not disclosed, taught, or suggested in *Pegg*. Because Applicant has shown the independent claim to be allowable, however, Applicant has not provided detailed arguments with respect to Claims 2 and 4-5. Applicant remains ready to do so if it becomes appropriate.

For reasons similar to those discussed above with regard to Claim 1, Applicant respectfully submits that *Pegg* does not disclose teach, or suggest each and every limitation recited in Applicant's Claim 6. As a first example, *Pegg* does not disclose, teach, or suggest "an encryption selection table accessible using a key value, the encryption selection table specifying at least one of the plurality of encryption programs to be used for each key value," as recited in Applicant's Claim 6. As discussed above, even if the Examiner considers the access key and the dynamic variables disclosed in *Pegg* to be the equivalent of Applicant's claimed periodic key value and public variable key value, respectively, the access code of *Pegg*, which is generated from the access key and the dynamic variables, is not "used as an index into an encryption selection table," as recited in Applicant's Claim 1. Because *Pegg* discloses that it is the valid account ID that is "used to locate the users corresponding data file containing the proper selected cipher algorithm index 122 and the user's access key 114" (Column 5, lines 41-45), Applicant respectfully submits that *Pegg* does not disclose, teach, or suggest "an encryption selection table accessible using a key value, the encryption selection table specifying at least one of the plurality of encryption programs to be used for each key value," as recited in Applicant's Claim 6.

As a further example, *Pegg* does not disclose, teach, or suggest "an encryption decryption engine under the control of the central processing unit and operable to execute a plurality of encryption programs . . . each of the encryption programs operable to receive a message and to output an encrypted message," as recited in Applicant's Claim 1. As

discussed above, the access codes 123 and 124 generated by the user and the authorization center, respectively, are merely “compared to determine whether a match exists.” (Column 5, lines 5-8). *Pegg* does not disclose, teach, or suggest any further use of the pre-selected algorithm for encrypting data messages. Accordingly, *Pegg* cannot be said to disclose, teach, or suggest “an encryption decryption engine under the control of the central processing unit and operable to execute a plurality of encryption programs . . . each of the encryption programs operable to receive a message and to output an encrypted message,” as recited in Applicant’s Claim 6.

For at least these reasons, Applicant respectfully requests reconsideration and allowance of independent Claim 6.

Claims 8-10 depend from independent Claim 6, which Applicant has shown above to be allowable. Since Claims 8-10 incorporate the limitations of independent Claim 6, Claims 8-10 are allowable for at least this reason. Additionally, Applicant respectfully submits that Claims 8-10 also recite features that are not disclosed, taught, or suggested in *Pegg*. Because Applicant has shown the independent claim to be allowable, however, Applicant has not provided detailed arguments with respect to Claims 8-10. Applicant remains ready to do so if it becomes appropriate.

Section 103 Rejections

The Examiner rejects Claims 3 and 7 under 35 U.S.C. § 103(a) as being unpatentable over *Pegg*. For the following reasons, Applicant respectfully requests reconsideration and allowance of Claims 3 and 7.

First, Claims 3 and 7 depend from independent Claims 1 and 6, respectively, which Applicant respectfully submits have been shown above to be allowable. Since Claims 3 and 7 incorporate the limitations of their respective independent claims, Claims 3 and 7 are allowable for at least this reason.

Second, Applicant respectfully submits that Claims 3 and 7 also recite features that are not disclosed, taught, or suggested in the cited art. With respect to Claim 3, the Examiner acknowledges that *Pegg* does not disclose, teach, or suggest “encrypting the data message a second time using the second encryption method prior to transmitting the encrypted message.” Rather, the Examiner takes Official Notice that the recited features are well known in the art at the time of the invention and provides citations to U.S. Patent No. 5,742,686 issued to Finley (“*Finley*”), U.S. Patent No. 5,343,527 issued to Moore (“*Moore*”), and U.S. Patent No. 6,091,818 issued to Campinos (“*Campinos*”) as examples of the art at the time of invention. Applicant respectfully traverses the rejection of the claims on this basis.

The mere fact that references can be combined does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680 (Fed. Cir. 1990). The showing must be clear and particular. *See, e.g., C.R. Bard v. M3 Sys., Inc.*, 48 U.S.P.Q.2d 1225, 1232 (Fed. Cir. 1998). The Examiner has not provided adequate evidence that one of ordinary skill in the art at the time of the present invention would have been motivated to modify the limited access system disclosed in *Pegg* to include the teachings disclosed in *Finley*, *Moore*, or *Campinos*. The Examiner merely speculates “it would have been obvious” to modify the limited access system disclosed in *Pegg* to “second encrypt the data using a selected algorithm from an algorithm table before transmitting it to another party because it would provide an extra layer of security in the encryption.” (Office Action, page 7). As discussed above, however, *Pegg* discloses that a user of the limited access system manually generates the access code 123 using the selected cipher algorithm. (Column 4, lines 30-33; Column 5, lines 29-32). Thus, were a second encryption method used by the limited access system disclosed in *Pegg*, the user would be required to remember both a first and a second cipher algorithm and the order in which they should be applied to generate the access code. *Pegg* discloses, however, that “[t]he pool of cipher algorithms 110 includes a list of simple yet effective coding schemes.” (Column 4, lines 48-52). Accordingly, Applicant respectfully submits that one of ordinary skill in the art at the time of Applicant’s invention would not have been motivated to modify the limited access system disclosed in *Pegg* as suggested by the Examiner.

ATTORNEY DOCKET NO.
062891.0490

PATENT APPLICATION
09/745,461

11

For at least these reasons Applicant respectfully requests reconsideration and allowance of Claims 3 and 7.

ATTORNEY DOCKET NO.
062891.0490

PATENT APPLICATION
09/745,461

12

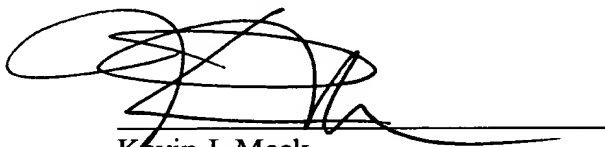
CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Kevin J. Meek, Attorney for Applicant, at the Examiner's convenience at (214) 953-6680.

The required fee of \$180.00 is submitted herewith for the IDS and is believed to be correct. The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicant



Kevin J. Meek
Reg. No. 33,738
(214) 953-6680

Date: July 30, 2004

Correspondence Address:

at Customer No. **05073**